

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GABRIEL F. NAGY,

Plaintiff,

v.

HARRIS M. DEWESE, *et al.*,

Defendants.

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CIVIL ACTION NO. 09-3995

ORDER

AND NOW, this 23rd day of February, 2011, upon consideration of plaintiff's motion for summary judgment against defendants Harris DeWese, Compass Capital Partners, Ltd., and Morgan Stanley Smith Barney LLC on Count I, and against defendant Morgan Stanley Smith Barney on Count III (docket no. 47); defendant Morgan Stanley Smith Barney's motion for summary judgment on Counts I and III (docket no. 48); and the responses and replies thereto, **IT IS HEREBY ORDERED** that

- (1) plaintiff's motion for summary judgment (docket no. 47) is **GRANTED IN PART AND DENIED IN PART**. The motion is **GRANTED** against defendant Harris DeWese as to liability only on Count I and **DENIED** in all other respects against all defendants;
- (2) defendant Morgan Stanley Smith Barney's motion for summary judgment (docket

no. 48) is **GRANTED IN PART AND DENIED IN PART**. The motion is **DENIED** to the extent that plaintiff's claim under Count I seeks to impose liability as a co-fiduciary under section 405 of ERISA, and **GRANTED** in all other respects;

- (3) trial of the remaining issues is scheduled for May 2, 2011, at 10:00 a.m.

/s William H. Yohn Jr., Judge
William H. Yohn Jr., Judge